

### **REMARKS**

In the Office Action claims 21-29 have been rejected under 35 USC 103(a) over Itoh in view of Lo, and further in view of Rothschild (USP 6,678,703). As has been established by virtue of the PTO's acquiescence in the argument made in Response to the Office Action of March 26, 2007, the Lo and Itoh references cannot be combined to teach a system of "requesting data wherein the system poll a local location and the data" (language from the Office Action). For this missing element, the rejection points to the tertiary reference, Rothschild, at column 30, line 53 — column 31, line 54 thereof.

It has already been established, previously in prosecution, that the phrase in claim 21, "image data moving from the input scanner directly to a port associated with the destination computer," means that there is *no intermediate server* between the scanner and the file of the destination computer. As was argued successfully in detail earlier in prosecution, the presence of, for instance, a "scan server" or internet server is not, and teaches away from, the recited feature of "image data moving from the input scanner directly to a port associated with the destination computer." Neither the primary nor secondary reference teaches this feature.

Turning to the newly-cited tertiary reference, Rothschild indeed makes an isolated reference to the idea of "polling" in the context of receiving image data. However, the teaching of the reference must be considered as a whole; and, as a whole, Rothschild teaches the use of an internet protocol (IP), which necessarily implies the use of an intermediate server between a scanner (or any kind of image recorder) and a destination computer (such as a workstation). Consider column 15, lines 33-64, which in fact sets up the context for the "alternative embodiment" described in the passage cited in the rejection:

An alternative embodiment of the invention provides a polling system located with the remote workstation [= destination computer], viewer or system. The polling system is an automated system within the remote workstation or viewer that *polls the central data management system* [which is distinct from the workstation] for queued data. \* \* \* The polling system includes: an *IP address* identifier, *IP address* notifier, a data request device and an internal poller. The IP address identifier internally determines the connection status and IP address, e.g., assigned by an internet service provider. The IP notifier, after

proper authentication, notifies the central database of the current IP address. The data request device *requests queued data from the central data management system*. The internal poller polls the viewer, workstation or system for the occurrence of a predetermined **event** that triggers the IP address notification and/or *data request*. (emphases added)

The overall teaching of the reference unmistakably sets forth a standard internet-protocol (IP) type of communication. In Rothschild, the workstation/destination computer polls the central data management system (which acts as a server) and requests queued data therefrom. The polling within in the workstation/destination computer is not for image data coming into a predetermined file location, as in claim 21, but rather some kind of “event that triggers the IP address notification and/or data request.” The Rothschild “polling” is fundamentally different from the “image data moving from the input scanner directly to a port associated with the destination computer” recited in claim 21.

Previously in prosecution, a finding of obviousness by a combination of Itoh and Lo references was successfully refuted. Adding Rothschild as a tertiary reference still does not support a finding of obviousness. While Rothschild mentions “polling” in the context of transmitting image data, the overall teaching of Rothschild clearly still requires the use of an *intermediate server* between the image source and the destination computer; and no combination of references teaches the claimed feature of “image data moving from the input scanner *directly to a port* associated with the destination computer.” For this reason, claim 21, along with its dependent claims, is patentable in view of the references.

The claims are therefore in condition for allowance.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he is hereby requested to call the undersigned attorney at (585) 423-3811.

Respectfully submitted,

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